

## REMARKS

This responds to the Final Office Action dated January 7, 2009.

Claim 1 is amended, claims 29-31 are canceled, and no new claims are added; as a result, claims 1-28 and 32-33 are now pending in this application.

### Amendments to the Claims

Applicants have amended the claims to cure an informality and to improve the readability of the claims.

### § 103 Rejection of the Claims

Claims 1-24, 32 and 33 were rejected under 35 U.S.C. § 103(a) as being obvious over Kitsukawa et al. (U.S. Patent No. 6,282,713, hereinafter referred to as the Kitsukawa reference) in view of Zigmond et al. (U.S. Patent No. 6,698,020, hereinafter referred to as the Zigmond reference). Claims 25-28 were rejected under 35 U.S.C. § 103(a) as being obvious over Kitsukawa in view of Zigmond as applied to claim 22 above, and further in view of Matsko (U.S. Patent Application Publication No. 2002/0062254, hereinafter referred to as the Matsko reference). The Applicants respectfully traverse and request that the Examiner reconsider the rejection.

Before directly addressing the Examiner's rejections, a brief review of the present disclosure is desirable. The present disclosure concerns an interactive order system for television and streaming media. In such television-based systems, the user typically has a very limited input mechanism such as a television remote control with a limited keypad. This is explicitly stated on lines 4 to 8 of page 2 in the written specification of the present application which state "Remote control devices typically do not support direct alphanumeric entry and may require many button entries to provide product selection and ordering information." Thus, it can be very frustrating for viewers to use such a limited input mechanism to make purchases. In fact most television-remote-based ordering systems that attempt to go beyond television-centric things

such as video-on-demand have been a failure. Instead, television-based direct marketing system such as the home shopping network instead opt to use the viewer's telephone or internet connection in order to place orders for items seen on the television. Using a television remote to order products displayed on television is simply too frustrating and difficult such that consumers reject such systems.

To address this vexing issue of placing orders with television remotes, the system of the present application simplifies the problem. After receiving a request for a particular product, the system first determines if there are more than one version of the selected product. (If there is only one version that that one version is presented to the user.) If there are more than one version of the selected product available, then the system selects one version from the more than one version using stored user preference information. For example, if the product is a baseball cap, the system may use user preference information such as the user's address to select the one version of the baseball cap to be a baseball cap with the logo of a local professional baseball team. By using stored preference information to limit the user's choice down to a single version of the selected product type, the system of the present application presents a very simple and intuitive method of purchasing an item. Thus, the one version of the product selected by the system using user preference information may be purchased with a single button press on the simple television remote. This simple method of purchasing a product can be done with the television remote without frustration.

All of the independent claims of the present invention are directed toward a system that selects one version of a product for display in order to simplify the user input. Specifically, all the independent claims specify that "one version of the product" is selected for the user to purchase based on collected user preference information.

On page 2 of the Examiner's Office Action, the Examiner admitted that the Kitsukawa reference does not teach the system as claimed but instead teaches the opposite since it teach displaying different versions. Specifically, the examiner stated:

Kitsukawa teaches that following the selection of advertising mark 720, the CPU-29 checks and displays different versions and upon a further selection the CPU-29 again checks and displays different versions as shown in 706, i.e., **when a car ads is selected the CPU-29 checks the various versions and displays car, car tires, type, car detailing services, car repair services, etc., (plurality of**

**versions). Kitsukawa silent to comparing more than one version of the product with previously collected and stored preference information associated with the viewer.**

This specific feature of selecting one product version using stored user information is a key aspect of the presently claimed disclosure. For this particular limitation of the present claims, the Examiner cited the Zigmond reference, a reference that does not deal with a user interface for a retail sale system. Specifically, the examiner stated that:

However, Zigmond discloses techniques for **intelligent video ad insertion** and further discloses comparing ads with previously collected and stored preference information associated with the viewer (figs. 1, 4-8, col.4, line 53-col.5, line 14, col.9, line 21-col.11, line 1+ and col.13, lines 48-67).

Video advertisement selection is a completely different problem than the problem of a user interface for retail system. With video advertisements, only one video advertisement can be displayed to a viewer. In the Zigmond reference, one advertisement must be selected since people cannot listen to the cacophony of two or more simultaneous video advertisements.

By referring to the Zigmond reference, the Examiner is referring to prior art in a completely different field (advertising instead of user interfaces for online retail systems) to solve a completely different problem (selecting a single advertisement since only one can be displayed at a time instead of selecting products to display to a user on an online retail system). Advertisement selection is not what is claimed is claimed in the present invention. And there is no reason why a person in the art would ever refer to the Zigmond reference since the present invention does not have the problem of requiring the selection a single advertisement. On the contrary, it is more intuitive for a system to display several versions of products. In fact this is exactly what the Kitsukawa reference does. As illustrated in **Figure 7**, the Kitsukawa reference discloses many products (in frame 704) and then even after a user selects one product, the Kitsukawa reference discloses selecting from several versions of that selected product (car tires of different type, size, ratings, and price as illustrated in frame 706).

The present invention is addressed at solving an entirely different problem. The present invention involves simplifying a user interface to enable users to purchase items easily using a simple television remote. To do this, the claimed system uses collected user preference information in order to select a one particular version of a product that may then be purchased by a consumer. Such, a system actually is in stark contrast with conventional wisdom since retailers

generally attempt to present as many possible product versions to a consumer as possible. For example, shopping malls have succeeded since a very large number of different product versions are present to consumers in a large shopping mall. Similarly, on the internet, Amazon.com has become the most well-known and successful internet retailer by presenting users with millions of different product versions to customers.

Thus, the prior art cited by the examiner fails to disclose the claimed system that selects a particular version of a product using user preference information. Instead, the examiner submits that the present invention is rendered obvious since the Zigmond reference discloses the selection of an advertisement using user preference information since only one advertisement can be displayed. But a system that selects an advertisement because only one can be displayed is not what is claimed by the present application. Advertisement selection is a completely different problem than product selection. In product version selection, retailers generally like to present a large set of product versions to the consumer such that the consumer can select from the multiple different versions. That is what would be obvious to a practitioner and is what Amazon.com does actually do. That is what is disclosed in the Kitsukawa reference. The presently claimed system is nonobvious in view of the Kitsukawa reference. If it was obvious, the Kitsukawa reference would have disclosed it. No person skilled in the art would have considered the teachings in the Zigmond reference since it addressed a different problem in a different field. There is no motivation to combine the references since the problem addressed in the Zigmond reference (only being able to display a single video advertisement) is not a problem that even exists within the Kitsukawa reference where multiple products can easily be displayed as illustrated in **Figure 5** of the Kitsukawa reference.

Since the all of the independent claims of the present application specify a system that “selects one version of said product”, a feature not disclosed by nor rendered obvious by either the Kitsukawa reference or the Zigmond reference, the claimed system is allowable over the cited references. The dependent claims, which incorporate all the limitations of the independent claims, are likewise allowable.

**CONCLUSION**

Applicant respectfully submits that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's representative at (408) 278-4058 to facilitate prosecution of this application.

If necessary, please charge any additional fees or deficiencies, or credit any overpayments to Deposit Account No. 19-0743.

Respectfully submitted,

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**CERTIFICATE UNDER 37 CFR 1.8:** The undersigned hereby certifies that this correspondence is being filed using the USPTO's electronic filing system EFS-Web, and is addressed to: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on March 3, 2009.

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